

CITY OF ABERDEEN
PLANNING COMMISSION MEETING
MINUTES

Wednesday, February 9, 2011

A meeting of the Aberdeen Planning Commission was called to order at 7:00 p.m., February 9, 2011, in the Council Chambers by Chairman Swisher.

MEMBERS PRESENT: Chairman Swisher, Commissioners Heavey, Kosko, and Schlottman.

OTHERS PRESENT: Councilwoman Sandra Landbeck, City Council liaison
Phyllis Grover, Director of Planning & Community
Development
Matt Lapinsky, Director of Public Works (DPW)
Gil Jones, Recording Secretary

The minutes of the January 12, 2011, meeting were approved with minor corrections.

AGENDA ITEMS:

1. Minor Revisions to Preliminary Site Plan of Aberdeen Corporate Park
Location: McHenry Road, off Middleton Road and Maryland Route 22.

Representative: Amy DiPietro, Morris & Ritchie Associates (MRA).

Ms. DiPietro reviewed some changes that Merritt would like to make to the original site plan. These changes would change the size of Pad 1 from 6,000 square feet to 9,100 square feet, for the purpose of building a Merritt Athletic Club on this site. Pad 2 would be enlarged from 6,000 square feet to 7,000 square feet. This would be achieved by eliminating some pavement to create a more marketable size. Parking between Pads 1 and 2 would be eliminated, as well as the elimination of 10,000 square feet of additional impervious area. A small plaza would also be added between the buildings.

Mrs. Grover said it appears that 12 parking spaces are removed by the change. Ms. DiPietro said the original pad sites for the restaurant required 162 spaces; the athletic club and retail uses require 81 spaces, with 158 spaces provided. Mrs. Grover pointed out that the landscaping appears to be more extensive than before. Ms. DiPietro confirmed this to be the case.

Mr. Lapinsky indicated he would need revised calculations for water and sewer use at these sites.

Mrs. Kosko asked when the preliminary site plan was originally approved. Ms. DiPietro said the Planning Commission approved it on October 14, 2009, with approval by the City Council on October 26, 2009. Mrs. Kosko asked if the revisions would be shown on the original site plan. Mrs. Grover said the revision would be added to the preliminary site plan as well as the final construction documents submitted to the City for review. Mrs. Kosko asked that since the

proposed uses have changed, would the site plan be revised to reflect these changes. Mrs. Grover said yes, this would be done after the Planning Commission approves the changes. Mrs. Kosko asked if the Planning Commission would receive an updated plan. Mrs. Grover said they normally do not, but would provide one if so desired. Mrs. Kosko said she would like to receive the updated copy. Mrs. Grover said she would provide the Planning Commission members with copies of the revised plan.

Mr. Schlottman asked if the other pad would have a retail or office use. Ms. DiPietro said they do not yet have a tenant, but it would be a retail or restaurant use.

Mr. Swisher asked if there is still excess parking, even with the changes. Ms. DiPietro said yes; 928 spaces are required, 1,067 spaces are provided. Mr. Swisher asked if both potential pad buildings would be 1-story. Ms. DiPietro said yes.

Motion by Mr. Schlottman, seconded by Mrs. Kosko, that the changes to the preliminary site plan be approved as presented, with inclusion of staff comments. Mrs. Kosko pointed out that the Planning Commission was not provided a revised preliminary site plan, but a site and grading plan. As such, Mrs. Kosko asked that the motion be corrected. Before considering a correction to the motion, Mr. Schlottman asked Mrs. Grover what the difference is between a site/grading plan and a preliminary site plan in this particular situation. Mrs. Grover said the site/grading plan has additional grading information the Planning Commission would not ordinarily see, but it does reflect the changes in building pad size, reduction in parking, and the courtyard/plaza. **Mr. Schlottman maintained his motion, but Mrs. Kosko withdrew her second – she does not feel a site/grading plan is appropriate for review. Mr. Schlottman’s motion failed for lack of a second.**

Mr. Swisher asked when a revised plan could be brought to the Planning Commission. Mrs. Grover said it would have to be reviewed at the April meeting, as the March Planning Commission meeting is dedicated to a public hearing on the Comprehensive Plan. Mr. Swisher suggested a special Planning Commission meeting to consider the revised plan. The consensus of the Commission was to meet next week Wednesday, February 16, at 7:00 p.m. for consideration of the revised plan. Mrs. Grover asked the Commission to specify to Ms. DiPietro what they wished to see. Mrs. Kosko said she wishes to see a revised preliminary site plan sheet that reflects the changes being made.

2. Next steps and recommendations for proposed amendments to Chapter 524, Wellhead Protection, and associated maps

Mrs. Grover reviewed the presentation given at last month’s Planning Commission meeting by Joel Caudill of Harford County Public Works concerning the Perryman wellhead and the County’s wellhead protection areas. Mrs. Grover is asking the Planning Commission to consider a recommendation to the City Council that they consider amending and adding the Perryman recharge area to our wellhead protection districts.

Mrs. Heavey asked if this would also include the County’s restrictions. Mr. Lapinsky said yes. Mr. Swisher asked that if we added the County’s area, then a draft of the ordinance would be prepared and include those restrictions. Mrs. Grover said yes. The amendment would be to

Chapter 524-6 and reflect those areas within our corporate limits. Mrs. Heavey asked if the Planning Commission would then review the draft. Mrs. Grover said yes.

Mrs. Kosko is in favor of amendment to reflect the County portions, but wants to know exactly what parts of our Code are to be amended; would it affect all of our Code or just the parts affecting the County portion of the wellhead. Mr. Lapinsky indicated it to be for the County wellhead portions in the City limits. Mrs. Grover said this would not change our current Zone 1 and Zone 2 prohibited uses. Mr. Lapinsky concurred in this view.

Mr. Swisher asked if Mrs. Kosko would be willing to work on these amendments with City staff and she agreed to do so. Mr. Lapinsky feels that for the City to not honor the County's wellhead areas would be counterproductive, due to the fact we are receiving water from the County. Mrs. Kosko wondered if we should at this time look at the County Code to see if we should make additional changes to ours holistically or just makes changes as they apply to those areas affecting the County wellhead. Mr. Schlottman said the Commission is only being asked for recommendations on what's in the City in terms of the County wellhead zone. Mrs. Heavey indicated a desire to see the amendments in writing.

Mrs. Kosko asked about the letter of December 29, 2010, that indicated the County would act as the "petitioner" to have the City Code amended. Mrs. Grover referenced the procedure for changes to the Wellhead Code as indicated in Chapter 524-6.

Mr. Swisher feels we should work with the County on this change and make appropriate changes to our Code as well, that their concerns are really also our concerns.

Motion by Mr. Schlottman to accept the recommendations of Harford County for their wellhead protection areas within the City limits of Aberdeen and adopt their regulations as they stand. Motion failed for lack of a second.

Motion by Mrs. Kosko to amend the City of Aberdeen's wellhead ordinance in accordance with Section 524-6 of the City Code by accepting Harford County's petition to do so. Motion failed for lack of a second.

Motion by Mrs. Kosko that a committee be established to work on this issue and bring back a recommendation at the next meeting. Discussion ensued over language of the motion, committee makeup, and intent of what is to be worked on and eventually sent to the Council. Mr. Swisher felt the Commission should move forward and resolve the problem of protecting the County's wellhead areas within our City limits. He recommends that a Commission member or members work with Mrs. Grover and Mr. Lapinsky on this. Mr. Lapinsky indicated that Mrs. Kosko's first motion was basically the same as what Mr. Swisher just stated.

Motion by Mrs. Kosko (reiterated), seconded by Mr. Schlottman, to amend the City of Aberdeen's wellhead ordinance in accordance with Section 524-6 of the City Code by accepting Harford County's petition to do so. Motion passed unanimously. Mrs. Kosko agreed to work with staff on this issue.

3. Comments on draft Chapter 475 – Subdivision Regulations

Mrs. Grover said she sent revised copies to the members last month to receive comments. Mr. Swisher's and Mrs. Heavey's comments have been received. Mrs. Kosko has reviewed the document and generally concurs, but would like to have it sent electronically. Mrs. Grover will make sure revised copies are sent out to all members once comments are received and incorporated.

4. Revised Preliminary Subdivision Plan for Aberdeen Xchange
Location: Corner of Old Philadelphia Road & Maryland Route 715.

Representatives: Jerry Powell and Tory Pierce, Frederick Ward Associates, and Davis Emory, property owner.

Mr. Powell indicated this to be a second revision to the previously approved preliminary subdivision plan for Newton Station. The original was approved in February 2008; a subsequent revision was approved by the City Council in August 2008. Originally, the property encompassed 8.5 acres, divided into 5 lots. This new plan is for 4 lots.

The reason for the revision is that the State Highway Administration (SHA) acquired 1.23 acres of right-of-way for improvements to the intersection of Old Philadelphia Road and Maryland Route 715. A jurisdictional determination and letter of intent were obtained from the Maryland Department of the Environment (MDE) that up to 5,000 square feet of wetland area could be disturbed on the property. This resulted in a revision to the subdivision plan to produce 4 lots. Storm water management (SWM) will be handled on the area previously known as Lot 5. Reforestation will take place in the non-tidal wetland area. The SWM area is adjacent to the wetland area and is on a non-buildable remaining parcel.

Mrs. Grover asked that the setbacks be removed from the open space lot and that the SHA-acquired right-of-way be shown on this plan as it is on the original. Mrs. Grover noted Newton Road is shown as a public road in one place and private in another. Mr. Powell said this is intended to be a public road. Mrs. Grover said this should be changed to reflect that. The zoning should also be noted and signatures of the property owners be added.

Mr. Lapinsky read into the record the comments that had been sent to Mr. Pierce, to wit: The plan needs to be signed and sealed by an engineer; Owners need to sign the plan; Update the professional certification date (3/30/09); Provide current SHA comments; Provide Harford County Wellhead Protection comments; Provide addresses for adjacent properties on Newton Road, Old Philadelphia Road, and Route 40; The wetlands shown do not match SHA plans, please provide documentation that this plan is correct; Note 10, water usage, does not match what Bohler Engineering provided, please provide details of the actual store size and car wash size used for actual usage and include maximum daily demand; Provide certified water usage letter signed and sealed by the engineer no older than 6 months and include maximum daily demand; Note and label all public utilities that will be relocated; Show any existing wells and/or septic systems on-site and on parcels 1385, 2576, 2577, 2578, 2582, and 14; Label swales shown as temporary and include temporary 20-foot easement; Show and label SWM easement; and please add the following note - "This project will participate in the City's Inflow and Infiltration

(I&I) Program by treating I&I equal to the projected sewer flows generated by this project.” Mr. Lapinsky said this last item is accomplished through a fee of between \$8-\$9 per gallon.

Due to the number and complexity of the DPW comments, Mr. Swisher asked that in the future a copy of these be provided to the Commission members so they can follow along.

Mr. Lapinsky said the comments from the Harford County Health Department (HCHD) are also needed. They have not been received for this plan. Mrs. Grover said this plan was re-submitted to the HCHD, but she has not received a letter from them.

Mrs. Heavey asked about the status of the Warfield property in the subdivision. Mr. Powell said that property is not included in this subdivision. Mrs. Heavey asked if the developer has acquired this property. Eric McWilliams from Bohler Engineering said the Warfield property is part of the subdivision plan to be presented to the Planning Commission after the one currently under consideration.

Mrs. Heavey asked what would happen with the cul-de-sac at the end of Newton Road. Mr. Powell said the cul-de-sac would be constructed with driveway access to the other lots. Mrs. Heavey asked if the property owners along Newton Road would be required to access their properties via Old Philadelphia Road. Mr. Powell said the connection to Route 40 would be maintained.

Mr. Schlottman asked if the change from 5 lots to 4 is because of the SHA action. Mr. Powell said it was.

Mr. Swisher asked about the number of parcels; the plan shows 4, but he counts 6 – 1 for the SHA property, 3 buildable, 1 for SWM and forest retention, and 1 on the curb. Mr. Powell said there are 4 buildable lots. Mr. Swisher asked who would own the SWM lots. Mr. Powell said it would be owned by a commercial association, governed and joined by the 4 lot owners. Mr. Swisher asked for clarification that Newton Road would remain open even with the cul-de-sac. Mr. Powell said that is the intention.

Mr. Lapinsky asked Mr. Powell to explain how the developer could improve a road they don’t own, and whether the owners of the road have given permission to improve it. Mr. Powell said this still needs some work, that there is some conflict in the deeds and they are trying to work out who owns what. Mr. Lapinsky asked if the road were public, would it be turned over to the City in fee simple. Mr. Powell said that is to be determined. Mr. Pierce said the road is currently public; it comes down to fee simple ownership of that public road. A public road gives inherent rights to the City to maintenance from edge of pavement to edge of pavement. Mr. Swisher asked if some of the land would be made as a right-of-way. Mr. Pierce said yes. Mr. Lapinsky said this is a private road, that the City has not plowed it for at least 2 years.

Mr. Lapinsky said Lot 1 shows a convenience store – does this include a gas station? Mrs. Grover said this is for approval of the subdivision, not a specific use, for B-3 zoning. Mr. Lapinsky said that with anything that happens in this area, the owner proceeds at his own risk. Mr. Powell said they don’t need use approval, just concept. The note can be changed to remove reference to a convenience store.

Mr. Schlottman said he is not quite sure about the fate of the road or the Warfield property. Mr. Powell said, under the original approval, they did submit a road plan and were going through review when the SHA issue arose. Mr. Schlottman asked Mr. Lapinsky if he could envision 2 roads in this area. Mr. Lapinsky said he would get a 30-foot pavement on a 50-foot right-of-way in an easement, or a 30-foot pavement on a 50-foot right-of-way in fee simple.

Motion by Mr. Schlottman, seconded by Mrs. Kosko, that the revised preliminary subdivision plan be approved, with the inclusion of staff comments. Motion passed unanimously.

At this point, the Chairman called for a 5-minute break.

5. Review Preliminary Subdivision Plan for Royal Farms Store
Location: Corner of Old Philadelphia Road & Maryland Route 715.

Representatives: Eric McWilliams, Bohler Engineering, and Jeff Bainbridge, Royal Farms.

Mr. McWilliams indicated this to be a subdivision of Lot 1, Aberdeen Xchange, and the Warfield property. This will take the current Lot 1 and combine it with the Warfield property. This property will be owned by Royal Farms, which is why Mr. McWilliams was not included in the previous presentation. The new lot will be 1.79 acres. The developer will dedicate what is necessary to improve Newton Road.

Mrs. Grover said, for clarification, that Aberdeen Xchange needs to come back with a final subdivision plat to create this lot. Mr. McWilliams concurred in this view, then Royal Farms will come in with their final subdivision plat. Mrs. Grover asked that items E, F, and G be removed from this plan, as they are more germane to a site plan. Mrs. Grover asked if Mr. McWilliams is representing the property owner, Royal Farms, or both, who owns the lots in question, and where the deal stands at this time. Mr. McWilliams said he is representing Royal Farms and deferred to Mr. Bainbridge as to the details of the deal. Mr. Bainbridge said Lot 1 and the Warfield property are both under contract, but haven't yet closed.

Mr. Lapinsky read into the record the comments that had been sent to Mr. McWilliams, to wit: Provide what recorded record plat this is being subdivided from; Provide current SHA comments; Provide current Harford County comments; Owners need to sign the plan; Update the professional certification date (4/16/09); Provide current water usage letter signed and sealed by the engineer; Provide details of water usage in note #16 (size of store and car wash, and multiplier of the actual Royal Farms store you are comparing this with); Please show and label Harford County Wellhead Protection Area or note that the entire site is within it; Show and label SWM easements; Provide rights-of-way for the entire Newton Road frontage of this property (including metes and bounds); Provide an easement around the proposed water meter if it is outside the proposed Newton Road right-of-way; Add Preliminary Plan approval date; and add the following note - "This project will participate in the City's Inflow and Infiltration (I&I) Program by treating I&I equal to the projected sewer flows generated by this project." Mr. Lapinsky said this last item is accomplished through a fee of between \$8-\$9 per gallon.

Mrs. Grover said a letter has been obtained from the HCHD pertaining to this site dated December 6, 2010, and a copy provided to the Planning Commission. Per request of Mr. Swisher, this letter will be made a part of these minutes.

Motion by Mrs. Kosko, seconded by Mrs. Heavey, that the preliminary subdivision plan be approved, with the inclusion of staff comments and inclusion of the letter from the HCHD. Motion passed unanimously.

6. Review Preliminary Site Plan for Royal Farms Store
Location: Corner of Old Philadelphia Road & Maryland Route 715.

Representatives: Eric McWilliams, Bohler Engineering.

Mr. McWilliams indicated this takes into consideration the new lot just created by the previous Commission action. This is for a Royal Farms “S-type” store of approximately 5,700 square feet facing the signal at Maryland Route 715. There will be 4 multi-product dispensers and a car wash along Newton Road. This will use the Aberdeen Xchange SWM facility, with a couple of exceptions to account for new regulations.

Mrs. Grover said that in the City’s Wellhead Zone 2 a car wash would require conditional use approval. However, this area is not currently in the City’s Wellhead Protection Area. Mrs. Grover asked about a loading area. Mr. McWilliams said such areas exist by the gas pumps for larger trucks; box trucks would be used for general delivery and could pull into a parking space. Mrs. Grover said a parking spot is needed for deliveries per the City Code, that there is enough parking on hand to accommodate this.

Mr. Lapinsky read into the record the comments that had been sent to Mr. McWilliams, to wit: Owners need to sign the plan; Provide details of water usage in note #16 (size of store and car wash, and multiplier of the actual Royal Farms store you are comparing this with); Provide current water usage signed and sealed by the engineer; Please show and label Harford County Wellhead Protection Area or note that the entire site is within it; Provide current Harford County comments; Show and label all wetlands on-site or note there are no wetlands within this site; Provide current SHA comments and note that will comply with the SHA project; Show and label the car wash service connection; Provide ownership information contiguous to this site; Show and label SWM easements; and provide rights-of-way for the entire Newton Road frontage of this property (including metes and bounds). Mr. Lapinsky said the owner moves ahead at his own risk due to the presence of the Harford County Wellhead Protection Area. The HCHD has also expressed concerns. The owner needs to recognize the risks involved in moving forward.

Mrs. Grover pointed up the HCHD preliminary site plan letter from November 19, 2010, and the letter from Mr. Caudill of the Harford County Department of Public Works dated March 26, 2010. These will be added to the minutes.

Mrs. Heavey felt the intent was that we would honor the County’s wellhead protection area, therefore this is not an allowed use.

Mrs. Kosko recommended that this plan be tabled until the wellhead issues are addressed. Mr. Schlottman expressed agreement.

Mr. Swisher expressed reservations about this plan and pointed up the issues with the County wellhead regulations and their differences and similarities with the City's. He also expressed concerns about accidents, piping, and containment. He feels there a number of things to consider before making any recommendation to the City Council and the best action is to hold this in abeyance.

Councilwoman Landbeck asked Mr. Swisher if he would report his findings to the City Council at a work session. Mr. Swisher said he would. He also asked the Commission to read through the City's regulations and come back with some recommendations.

Mr. McWilliams said this site would have an oil/water separator. He indicated the measures Royal Farms uses to protect underground tanks: lines, doubled-walled piping, and a sump with multiple alarm systems. He said these measures are more stringent than what the MDE requires, and that other solutions have also been explored.

Mrs. Kosko asked if this set-up is specific to Royal Farms or is this found on a general basis. Mr. McWilliams said you may find similar systems elsewhere. He said he would send specifications to Mrs. Grover by e-mail.

Motion by Mr. Schlottman, seconded by Mrs. Heavey, that the preliminary site plan be held in abeyance until more wellhead information is obtained from the City and Harford County. Motion passed unanimously.

7. Other Business

Comprehensive Plan – Mrs. Grover indicated the Planning Commission meeting on March 9 would be a public hearing on the City's updated Comprehensive Plan. There will be no other items on the agenda.

Next Wednesday will be a review of the revisions to the preliminary site plan of Aberdeen Corporate Park

There being no further business or public comment, the meeting was adjourned at 9:00 p.m.

Planning Commission Chairman

Recording Secretary

Date of Approval